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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/062,785

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Robert H. Folk II

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EXAMINER

NGUYEN, JIMMY H

ART UNIT

PAPER NUMBER

2673

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/062,785

Applicant(s)

FOLK, ROBERT H.

Examiner

Jimmy H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is made in response to applicant's amendment filed on 12/28/2003 (entered into the file wrapper as Paper No. 4). Claims 1-23 are currently pending in the application. An action follows below:

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2 and 4-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al. (USPN: 6,593,973 B1), hereinafter Sullivan, and further in view of Jambhekar et al. (USPN: 5,848,356), hereinafter Jambhekar.

As per claims 1, 11 and 23, Sullivan discloses a device and an associate method for incorporating a graphic with a received video broadcast displayed on a display device, the device comprising a remote server (a network 118, fig. 1) for providing a graphic data (a superimposed video signal, col. 3, lines 1-6) and a display device (a display device comprising elements 122, 124, 126, 128, 202, 20, 227 and 228, see fig. 1) adapted to display a broadcast video received from a CATV (110) or a satellite (112) and the graphic data from the remote server, and comprising a display interface (a display interface comprising elements 122, 124, 126, 202, 20, 227 and 228, see fig. 1) for overlaying the graphic image data on the received video signal or video stream (i.e., the claimed video broadcast). See col. 2, lines 51-65, and fig. 4. Accordingly, Sullivan discloses all the limitations of claims 1 and 11 except for an input device or a

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combination of an input module and a communication module, adapted to receive, to store an instruction corresponding to a graphic data and to transmit graphic data to a remote server.

However, Jambhekar expressly teaches an input device (a radio communication 103, fig. 1) comprising an input module (a module including elements 115, 119, 121, 123, 125, 127 and 129, fig. 1) adapted to receive and to store an instruction corresponding to a graphic data (figs. 10s, col. 8, lines 5-44) and a communication module (a radio circuitry 113, fig. 1) for transmitting graphic data to a remote server (a remote transceiver 101) (col. 3, lines 36-45). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide an input device in the device of Sullivan, in view of the teaching in the Jambhekar, because this would provide a user an easier way to compose and to transmit his message to others, as taught by Jambhekar (col. 8, line 60 through col. 9, line 5).

Regarding to claims 2 and 12, as noting in fig. 10, Jambhekar further teaches the instruction including destination address information (see step 1030 and 1032) and the step of transmitting the graphic data to a remote server, in order to transmit the graphic data (an email or a fax or a message) to the selected recipient only.

Regarding to claims 4 and 13, as noting in fig. 10C, Jambhekar further teaches the input device comprising a stylus and a touch screen device.

Regarding to claims 5 and 15, as noting in fig. 1, Jambhekar further teaches the input device being a wireless handheld communicating device.

Regarding to claims 6 and 16, Sullivan further teaches the remote server (118) comprising an Internet server (col. 5, lines 7-8).

Regarding to claims 7 and 14, Jambhekar further teaches that the remote server (101) can be considered as an addressable set-top box for directly transmit the user instruction from the input device (103) to selected recipient (fig. 1).

Regarding to claims 8 and 20, Sullivan's the display interface can be considered as a set-top box adapted to overlay graphics images on a received video broadcast displayed on a display device (fig. 1, col. 2, line 51 through col. 3, line 6).

Regarding to claims 9 and 22, Sullivan's remote server (118) and display interface can considerably comprises a personal video recorder adapted to receive and to overlay the graphical data on the broadcast video (fig. 1 and col. 2, line 32 though col. 3, line 6).

Regarding to claim 10, Sullivan further teaches the display device comprising a television in order to receive a television signal via a CATV (110) (fig. 1).

Regarding to claims 17 and 19, Sullivan further teaches the communication module comprising a modem for receiving the data from the network (col. 2, line 41).

Regarding to claim 18, Sullivan further teaches the remote server comprising a computer (col. 4, lines 27-31).

Regarding to claim 21, Jambhekar further teaches the graphical data comprising text (fig. 10C).

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan in view of Jambhekar as applied to claim 1 above, and further in view of Dailey (USPN: 5,642,350).

Regarding to claim 3, as discussed above, Sullivan teaches a display interface, but does not expressly teach a plurality of remote display interfaces arranged in a peer-to-peer network.

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Accordingly, Sullivan in view of Jambhekar discloses all the limitations of claim 3 except for a plurality of remote display interfaces arranged in a peer-to-peer network.

However, Dailey expressly teaches that a plurality of remote devices arranged in a peer-to-peer network to permit every device on the network to initiate as well as receive messages from other devices on the network is well-known to those of ordinary skill in the art (col. 2, lines 14-17). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide a plurality of remote display interfaces arranged in a peer-to-peer network in the device of Sullivan because this would permit every device on the network to initiate as well as receive messages from other devices on the network, as taught by Dailey (col. 2, lines 14-17).

Response to Arguments

5. It is noted Applicant that the drawing objection, claim objections, the rejection under 35 USC 112, first paragraph, and the rejection under 35 USC 112, second paragraph, in the last Office Action dated 09/29/2003 are hereby withdrawn in view of the amendment filed on 12/28/2003.

6. Applicant's argument, see pages 13-15 of the amendment, filed on 12/28/2003, with respect to the rejections under 35 USC 103, have been fully considered but they are not persuasive because as follows:

Applicant argues that Sullivan et al. teaches away from overlaying graphic on the video **to create a combined video and graphic**, and the present invention enables the overlaying of a graphic onto a video source so that **the combined video and graphic is displayed** (page 14, line 22 through page 15, line 2). Examiner disagrees because the features, "**to create a combined**

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video and graphic” and “the combined video and graphic is displayed” are not recited in the claims. Furthermore, as noting in fig. 4 and the corresponding description, although the Sullivan reference is silent to disclose the first video from the first source and the transition video (i.e., the claimed graphic) being simultaneously displayed on the display; however, the Sullivan expressly teaches displaying the first video on the display device, overlaying the transition video (i.e., the claimed graphic) entirely on the first video displayed on the display device during the transition time, and displaying the transition video (i.e., the claimed graphic) on the display device.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy H. Nguyen whose telephone number is (703) 306-5422. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached at (703) 305-4938.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

JHN
March 1, 2004


BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600